

REMARKS

Claims 1-5 are allowed. New independent claims 6 and 7 are added herein.

Formalities:

A. Large Entity Status

On April 4, 2002 a Correction of Small Entity Payment was filed, stating that "while small entity status was established in the patent application in good faith and without deceptive intent, Applicant's status has changed to a large entity." Lest there be any confusion, Applicant wishes to clarify that while the parent applications 06/880,305, 07/349,653, 07/752,996, 07/824,893, 08/149,706, and 08/323,064 were entitled to small entity status, the status of exclusive licensee Idexx Laboratories, Inc. changed to a large entity on or about January, 1995. Applicant submits that the claim of small entity status made upon filing the present application was made by error and without deceptive intent, and Applicant submits that the retroactive payment of fees filed April 4, 2002 was sufficient to remedy the deficiency in fees throughout the pendency of this application.

B. Declaration

Applicants have noted that the Combined Declaration and Power of Attorney filed April 26, 2002 erroneously refers to the status of priority application No. 06/880,305, filed June 30, 1986, as "Abandoned." As noted in the filing papers and on the filing receipt (copy enclosed), the '305 application issued as U.S. Patent No. 4,925,789. An unexecuted version of a new Declaration and Power of Attorney is filed herewith to correct this error. An executed version will be forwarded shortly.

New Claims:

Applicant submits the present RCE to introduce new independent claims 6 and 7. Both independent claims 6 and 7 include the term "powder" and remove the limitations relating to a "powdered medium" to ensure there is no doubt that the claims cover water test products that do not fall under the definition of "specific medium" as set forth in the present specification and as interpreted by the CAFC in the previously cited opinion (Edberg et al. v CPI, CAFC July 15,


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2002). Claim 7 further substitutes "comprising the following steps" for "consisting of the following steps". Claim 7 also introduces the further limitation "without the need of performing a preliminary target microbe growth step" – similar language appears in prior claims in this patent family (see, for example, US Patent No. 4,925,789, claim 1 lines 5-6).

Applicant submits that the present application is in condition for allowance. Early and favorable consideration is respectfully requested.

Respectfully submitted,

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